

### Political change in Egypt: The parliamentary elections of 2000 and horizons of reform

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## SWP-Studie

Stiftung Wissenschaft und Politik  
Deutsches Institut für Internationale  
Politik und Sicherheit

*Gamal Abdelnasser*

# Political Change in Egypt

The Parliamentary Elections of 2000 and  
Horizons of Reform

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**Political Change in Egypt  
The Parliamentary Elections of 2000 and  
Horizons of Reform**

Warum sollten die ägyptischen Parlamentswahlen des Jahres 2000 eine ausführliche Analyse wert sein? Haben Wahlen in Ägypten sich nicht oft genug als Farce – man denke vor allem an das 94-Prozent-Ergebnisse der letzten Präsidentenwahl – und hat das ägyptische Parlament sich nicht als Feigenblatt eines letztlich autoritären Regimes erwiesen? Ist nicht die insgesamt geringe Wahlbeteiligung bei den Parlamentswahlen ein klares Zeichen dafür, daß auch die ägyptische Bevölkerung diesen Wahlen keine Relevanz zumißt?

Die Realität ist auch hier komplizierter. Ägyptens Parlamentswahlen sind anders als die Präsidentschaftswahlen – oder richtiger: Referenden – Ausdruck politischer Pluralität, die auch echte Konkurrenz zwischen Kandidaten und Parteien zuläßt. Die Wahlen sind nicht unbedingt sauber, aber Überraschungen sind möglich. Das hat die deutliche Niederlage gezeigt, die die regierende Nationaldemokratische Partei (NDP) Präsident Mubaraks bei den Wahlen des Jahres 2000 erlitten hat – eine unerwartete Niederlage, nachdem die Partei doch noch 1995, mit deutlicher Manipulation, mit über 95 Prozent der Sitze aus den Wahlen hervorgegangen war.

Die Niederlage eines großen Teils der NDP-Kandidaten ist wesentlich das Ergebnis der erstmaligen Überwachung des Wahlvorgangs durch unabhängige Richter. Die ägyptische Justiz hat im allgemeinen einen guten Ruf. Daß bei den Wahlen des Jahres 2000 nun die Wahllokale unter die Aufsicht von Richtern gestellt wurden, ist selbst das Ergebnis einer politisch-juristischen Auseinandersetzung um die Art und Weise, wie das Wahlrecht sich materialisiert, an der oppositionelle Politiker, Parlament und Regierung, der Staatspräsident und die Justiz beteiligt waren. Im Ergebnis hat diese Auseinandersetzung die rechtsstaatlichen Elemente in Ägypten gestärkt.

Darüber hinaus reflektieren die Parlamentswahlen, und reflektiert auch das Feld der Kandidaten und Kandidatinnen, die über die Wahlen ihren Anspruch auf aktive Teilnahme am politischen Entscheidungsprozeß ausgedrückt haben, sozio-politische Veränderungen in Ägypten, deren mittelfristige Bedeutung

nicht zu unterschätzen ist, insbesondere die allmähliche Ablösung einer Generation, die noch durch den Oktober-Krieg (1973) und die ihm folgenden politischen Entwicklungen geprägt war, durch eine neue, die vielleicht am ehesten durch die wirtschaftlichen Liberalisierungsbemühungen der 90er Jahre und die Durchsetzung von Globalisierungselementen geprägt ist.

Im übrigen ist das ägyptische Parlament auch ein Forum für Auseinandersetzungen um die mittel- und langfristigen Entwicklungen des politischen Systems. Die Parlamente arabischer Staaten mögen eine Ausdrucksform autoritärer Herrschaft sein – oft marginalisiert, oft ohne die Kapazität, um strategische Entscheidungen wirksam zu steuern, und oftmals aus zweifelhaften Wahlen hervorgegangen –, sie sind aber, wie eine jüngere vergleichende Studie belegt (Baaklini / Denoeux / Springborg 1999), gleichzeitig ein unerlässliches Element der Transition von autoritären zu pluralistischen oder gar demokratischen Systemen, die als Arena politischer Auseinandersetzungen friedliche Lösungen von Konflikten befördern und darüber selbst zur Herauskristallisierung eines demokratischen Ethos gerade der nachwachsenden politischen Eliten beitragen können. Dies gilt sicherlich auch für Ägypten. Allerdings wird der Pluralisierungsprozeß auf parlamentarischer Ebene durch negative Entwicklungen konterkariert, die das Verhältnis von Staat und kritischen Nichtregierungsorganisationen betreffen. Die Verurteilung des renommierten Soziologen Saad Eddin Ibrahim im Mai 2001 zeigt, daß gerade Aktivisten und Organisationen, die im Menschenrechtsbereich arbeiten, sehr eindeutig in ihre Schranken gewiesen werden.

Für deutsche und europäische Politik läßt sich aus der hier vorgelegten Studie von Gamal Abdel Nasser, einem Mitglied des SWP-Forschungsprojekts zum Elitenwechsel in der arabischen Welt, vor allem die Konsequenz ziehen, daß sich die bilateralen Beziehungen mit Ägypten und anderen Staaten des Nahen und Mittleren Ostens nicht auf die Exekutiven beschränken sollten. Die Parlamente dieser Länder haben eine Funktion, und ihre Mitglieder sind eher als andere Segmente der politischen Eliten an einer weiteren Institutionalisierung, Pluralisierung und Demokratisierung politischer Prozesse interessiert. Die Position der Parlamente im politischen System dieser Länder wird stärker werden, wenn auch das Ausland sie ernst nimmt.

*Volker Perthes*

## Overview

During October and November 2000, in the shadow of a strained regional atmosphere following the onset of the al-Aqsa Intifada in the Palestinian Territories and the call for an extraordinary Arab summit in Cairo, Egypt held its seventh parliamentary elections since the introduction of the multi-party system in 1976. These elections were for the first time carried out under judicial supervision in three consecutive stages from October 18th to November 14th. During the first two rounds respectively nine governorates were holding elections. In the third round the inhabitants of Cairo, Giza and six other governorates were going to the polls. Over 4,000 candidates representing diverse political currents, among them members of the illegal Muslim Brotherhood who participated as independent individuals, contested 444 parliamentary seats in 222 constituencies.

The elections resulted in the replacement of more than two-thirds of the parliamentarians. 329 members<sup>1</sup> of the outgoing parliament lost their seats, and 277 members entered parliament for the first time in their life. The ruling party witnessed unprecedented losses whereas the opposition won 13 per cent of the seats. On its vanguard were members of the banned Muslim Brotherhood who returned to the arena after ten years of absence. Three Christian candidates were elected. Female candidates kept their percentage of parliamentary seats.<sup>2</sup> Businessmen and small entrepreneurs, representing various spheres of activity, doubled their seats. In compliance with the Nasserist legacy that at least 50 per cent of the seats have to be occupied by peasants and workers, the leading trade unionists as well as the most important peasant unionists also entered the parliament.<sup>3</sup> The only top officials and ministers who stood for election were the head of the Presidential Court (Zakariya Azmi), the Minister of Agriculture (Yussuf Wali), the State Minister of Parliamentary Affairs (Kamal ash-Shazli), the State Minister of Military Production (Sayyed Mash'âl), the Minister for Irrigation (Mahmud Abu

Zeid), the Minister of Housing (Ibrahim Suleiman), and the Minister of Economy and Foreign Trade (Yussuf Boutros Ghali), since they enjoy the highest popularity and held some of the most important portfolios.

The new parliament will have to face a number of thorny issues which have been postponed several times. Generally speaking, they concern the construction of a legal base for economic reforms that allows the liberalization of labor law and landlord-tenant relations. The solution of these pressing issues will also pave the way to consider the ratification of the partnership agreement with the European Union, which was initialled on January 26, 2001, and is expected to come into effect in the year 2005. Moreover, there are other urgent issues related to reforming the status of women, regulating the activities of non-governmental organizations and to the questions of freedom of expression and public ethics.

In light of the last elections, this paper will concentrate on political reform, elite formation and change in Egypt. Contrary to widely held assumptions (al-Gamal 1999; Kassem 1999; Kienle 2001), one of the best mechanisms for understanding changes both in Egyptian society and within the political elites are elections.<sup>4</sup> Elections in Egypt disclose the patterns of representation of every social group, in rural as well as urban areas, and reflect the patterns of choosing an elite. This paper thereby assumes that the parliament is not cut off from society but is an integral part of the social body. Even if the different social and religious groups are not represented proportionally in any democracy, the composition of parliamentary elites is not disconnected from society and not from changes in society. Furthermore, it is useful to classify the ways in which elites are chosen according to four criteria.

<sup>4</sup> Mostly, two approaches are used in order to study the representation of society. The macrological approach presents a classical analysis of election results; the micrological approach starts from one village, one electoral district or one candidate and generalises its conclusions. This paper is part of a broader project which tries to combine both levels through a database collecting the biographical data from 400 ministers and governors between 1971 and 2000 as well as from candidates of the parliamentary elections in 1990, 1995 and 2000 initiated by the author at the CEDEJ in Cairo.

<sup>1</sup> 317 members of the ruling National Democratic Party, 6 deputies of 3 opposition parties and 6 independents. The election results are taken from the daily press or from Mustafa 2001.

<sup>2</sup> Seven women made it to the Assembly.

<sup>3</sup> 173 'workers' and 55 'peasants' were elected.



### Historical Background

After the defeat of the Arab armies in the 1948 war against Israel and the establishment of the Israeli state, a political elite emerged led by a new generation of young military officers. They came from the middle classes and adhered to a pan-Arab, nationalist ideology. In the majority of the Arab countries, this elite displaced the traditional elite. Its legitimacy was based on two elements: its successful anti-colonial fight and its major reform projects. A social contract emerged that found its expression in, e.g., quota for workers and peasants in parliament which have been preserved until today.

The legitimacy of these nationalist young officers began to fade with the failure of the pan-Arab experiment of unification between Syria and Egypt, i.e., the United Arab Republic that lasted from 1958 to 1961 only. The deep conflict between the two camps of “progressive” and “reactionary” countries (i.e., the republics and the monarchies in the region) that was propagated by Nasserist thinking and which culminated in a violent confrontation between the two camps in the Yemen war of 1962-67 also added to the demise of the romanticism of pan-Arab nationalism. The national movement suffered its final blow after the defeat in the 1967 war. By now it had lost its legitimacy in the eyes of its people once and for all. The result of this defeat, especially in the states surrounding Israel, was a ‘purification’ of the whole military elite. This elite change was at that time labeled “replacing the technocrats with bureaucrats”. In the end, constitutional legitimacy replaced the revolutionary legitimacy.

Contrary to the period where the Arab world witnessed constant changes of regimes, since 1973

the heads of states have stayed in power for a lifetime. However, in the last 25 years their legitimacy has been more and more challenged by Islamist forces. Internal economic difficulties, foreign debt crises, the opening-up of the economy to the capitalistic world market, the widening gap between oil-producing and non-oil-producing countries and the effects of structural adjustment programs provoked major societal contestations, such as the bread riots in Egypt in 1977 and the riots by police forces in 1986. All of this strengthened the Islamist movement. Its moderate wing represented the urban middle classes and its extremist wing accommodated the urban poor as well as the poor peasants in the countryside who had profited at first from the new upward mobility starting in the post-colonial period. The conflict between the Islamists and the secular nationalists dominated the Arab states all throughout the nineties.

The transformation entered another stage after the Second Gulf War with cautious and slow but solidly. In its aftermath, Egypt’s foreign military debt was canceled completely by the United States, half of the civilian debts were rescheduled, the peace process gained speed with the Madrid conference in 1991 and the Islamic revolution in Iran lost more and more of its appeal for other Muslim countries. These circumstances allowed Egypt to enter a phase of liberalization and privatization. For this phase to continue, two reciprocal factors are essential: Regional stability, especially regarding the peace process with Israel, and an increase in economic resources for development. Without these two factors the optimistic scenario drawn in this paper will not come into being.

The first is a geographical one; the second is a class criterion; the third criterion divides the elites according to their (religious or political) affiliation; and the fourth criterion asks for what could be called “physical identity”, such as age, gender and ethnic origin. Political representation is based on these four closely interwoven criteria of choice. In order to recognize change, the author suggests comparing Egypt’s political landscape and the composition of its political elite with the situation ten, twenty or thirty years ago rather than with other countries.

The paper relies on three main sources: the immediate observation of political changes in Egypt, the

constitutional and legal provisions as well as press files covering the elections<sup>5</sup> and various essays and studies. It is divided into two main sections. The first part is dedicated mainly to topics related to the parliament, its formation, composition and changes that can be observed, and its position within the state’s structure. The second part will then concentrate on political reform issues in the short and the long run. However, borders are not always clear-cut as the issues discussed in both of them are closely interwoven.

<sup>5</sup> *Al-Ahram* and *al-Ahram Weekly* were regularly evaluated between September 2000 and May 2001.

# The Formation of the New People's Assembly 2000–2005

## Towards the Rule of Law

Until 2000, the general election code, law 63/1956 (*qanun bi-tanzim mubasharat al-huquq as-siyasiya*), had assigned the supervision of the voting committees to officials from the governmental administration and the public sector units. It was always suspected that these officials were biased or yielded to directives and pressures from the administration to falsify the election results by using voting cards of citizens who had not gone to the polls. After a judgement of the Supreme Constitutional Court in July 2000 stated that it was unconstitutional to allow persons other than members of the judicial authority to chair the polls, the election code had to be amended. Consequently, the general election committees in the constituencies and the sub-committees at each polling station were chaired by judges – who do not practice politics – for the first time in 2000. The Egyptian judiciary is generally acknowledged as an independent and impartial force.

Anticipating this judgement, the parliament (People's Assembly) had already initiated a process to amend the election code. But it rejected the idea that every single committee had to be chaired by a judge since about 10,000 members of the judiciary did not suffice to preside over 42,000 polling stations. The Assembly's viewpoint was supported by the Minister of Justice. When the opposition suggested holding the election in multiple stages, the ruling party responded that this was not feasible from a security as well as administrative point of view and that it also violated the election law which prescribed to hold the elections simultaneously in all constituencies. The Assembly then concluded what it considered to be a compromise. It retained the former system that judges preside over the 222 general election committees (one judge per constituency) and introduced a new requirement that every judge be assisted by a group of judges who would then move among the polling stations on the election day in order to supervise the 180 sub-committees in every electoral district. The Assembly deemed this sufficient to secure the safety and impartiality of the election process.

Shortly afterwards, however, the Supreme Constitutional Court issued its ruling which rendered the amendment made by the Assembly void. The president of the republic then practiced his constitutional right to issue decrees that have the power of a law and called the Assembly for an urgent session to adopt the court decision. During this session the parliament approved by consensus what it had rejected before: to hold the elections in 26 governorates at three consecutive stages, to reduce the number of polling stations to about 16,000 (i.e., one third<sup>6</sup>) and to mobilize about two-thirds of the judges and one-third of the prosecutors (i.e., 6,500 altogether) to chair them. This process shows how elements of rule of law start to gain ground.

## Patterns of Elite Choice

There are distinctive differences between constituencies in Egypt with regard to the percentage of voter turn out. The turn-out declines clearly as we move from the desert constituencies, the governorates at the border and rural areas (70% in average) towards the capitals of the governorates (about 30%) and finally to major cities like Cairo and Alexandria (about 15%). Even within the urban centers, voter turn-out drops as we move from the poor, informally-built, popular districts to the middle-class constituencies. Voter turn-out is at its lowest in the upper-class districts. The higher the level of urbanization and education, the lower the voters' interest and participation. This inverse relation is often said to reflect the negative attitude of intellectuals towards the political process in Egypt: the underlying assumption being that participation in the vote would not have any relevance for political outcomes.

This voting behavior also indicates that political participation in Egypt is still exercised collectively in many places. The high turn-out of voters in rural areas reflects the solidarity of the desert tribes, of the extended family, of the guilds, of the employees in

<sup>6</sup> This led to some confusion in the end as voters had difficulties finding their polling station.

### Legislation

The People's Assembly is the genuine but not the sole authority in legislation. The president of the republic shares this power with the Assembly in two cases: (a) when the Assembly authorizes him, and (b) when the Assembly is inoperative, i.e., when it is not convened, or when it has been dissolved.

Also, a constitutional amendment made at the beginning of the 1980s introduced the principle of sharing the legislative authority between two chambers. Accordingly, the second chamber, the Majlis ash-Shura (Consultative Council)<sup>7</sup> was established but was only given a consultative role in the following cases: (a) proposals for constitutional amendments and draft laws complementary to the constitution, (b) the draft of the country's general plan for economic and social development, (c) peace treaties, alliances and all treaties affecting the territorial integrity of the state, (d) draft laws referred to the Assembly by the president, and (e) whatever matters referred to the Assembly by the president that relate to the general policy of the state and its policy regarding Arab or foreign affairs.

Although the president does not exercise his legislative power extensively, he exercises it concerning the most important laws, i.e., those that may be described as complementary to the constitution and relate to the redistribution of power between the state institutions. The president's law concerning judicial supervision of elections is an ideal example. Here the president intervened to resolve what seemed a conflict of power between the state's institutions when both the parliament and the government refused the judicial supervision of elections. After the court ruling the parliamentary term had ended, the Assembly was not convened, and the president issued his decree, not only as a legislator but also as an arbitrator between the state authorities. Then he called the Assembly for an extraordinary session to adopt the decree. When the president legislates, the Assembly cannot amend the provisions. The Assembly will either adopt the law as a whole or revoke it.

major industries and of the immigrants from a common region gathered in semi-urban or urban centers.

<sup>7</sup> 285 members form the Majlis ash-Shura. Two thirds are elected directly and one third is appointed by the president for a period of six years.

Here, decision-making is still a patriarchal process. The head of a tribe, the father, the elder statesmen, the mayor, the employer or the landowner votes for his subordinates. The law responds to such customs. It allows the voter to choose his or her constituency according to the birthplace, the principal workplace or the current domicile. Thus, a voter living in the capital may vote in a constituency in the countryside or close to his workplace rather than his residence. Correspondingly, the law allows a candidate to run for election in a constituency other than that in which he/she is registered as a voter. Thus, a resident of an urban area may stand for elections in a rural area. Also, an employer, for example, residing in a rich district, may be a candidate in a poor popular area where his factory or enterprise is located.

This pattern is reinforced by the fact that the constituencies' boundaries are not necessarily congruent with geographical units. Areas that are geographically disconnected may be combined together to tailor a homogenous constituency based on professional, class or sectarian principles or on common origin. The electoral district of the Coptic candidate Yussuf Boutros Ghali, for example, is a patchwork out of several districts with a Coptic majority which are not linked geographically. Similarly, the district won by the Minister of Military Production is located in the south of Cairo and regroups areas with a high percentage of workers from the military industry. The third minister who ran in an artificial electoral district is the Minister of Housing. His constituency was in Fatimid Cairo where the biggest area of slums is found.

Participation on the basis of a collective pattern also entails that a few individuals vote on behalf of their absent relatives. Thus, the head of a polling station in the countryside would feel no inhibitions in allowing a handful of persons to vote on behalf of hundreds of their relatives, even though this is legally an act of falsification. However, this falsification illustrates the paradox of customary law versus civil law in Egypt more than demonstrating a moral or behavioral value.

Increasingly, over the last few years there have been indications that this collective voting pattern is being dismantled. The most apparent indication is the rising number of candidates (in 2000 more than double the number than in 1990). This testifies to mounting rivalry amongst candidates belonging to the same social group and mostly also to the same party as well as to a fragmentation of the voting blocks. It also

shows an increasing social mobility as a result of a more open system of education on the one hand, and an increasing individualism as a result of the internalization of a capitalist rationale on the other. These two factors help the individual to emerge from the patriarchal authority of his or her group. More and more individuals seek autonomous norms on the basis of which they decide themselves for a candidate. These norms are based much more on the efficiency of a candidate than his age, reputation or social position. New norms for participating in elections emerge and create a new ruling elite.

Putting the election under judicial supervision is part of this change. With a judge presiding the polling station, voters will no longer be allowed to exercise another voter's right to vote. Consequently, a candidate can no longer be sure that he will win if he only convinces a group's "patriarch" to vote for him. Rather, he will now have to convince the individual group members to do so as well. The credibility emanating from judicial supervision of elections could thus encourage more active participation of marginalized candidates and voters as well as initiate more competition and diversity.

For this to happen, however, the reform of the election code can only be a beginning which needs to be followed by further steps. First of all, there should be uniform criteria for choosing the constituency in which a person votes (preferably the domicile) in order to update the electoral register, which is at present misleading in every aspect. The manual registration method should be substituted by an electronic method linked with the national identity number – a program which is currently under implementation.<sup>8</sup>

<sup>8</sup> The manual registration method is problematic for three main reasons. First, information circulates via non-computerized channels. Second, several agencies are involved in the process: lists of those who were born and those who have died are passed from the Ministry of Health to the Ministry of Interior who then passes them to the respective police stations where the voters are expected to register. Similarly, the Ministry of Interior is informed by the Ministry for Defense about current draftees and by the Ministry of Labor about Egyptian migrant workers abroad, both of which are not entitled to vote. Third, the possibility of registering either at one's place of birth, one's principal place of work, or one's place of residence increases the potential of chaos. This process leaves lots of space for irregularities in the registration and during the actual voting process to occur.

## The Quota for Workers and Peasants

The Constitution grants workers and peasants a quota of at least 50 per cent of the seats in all legislative councils, which is a legacy of the Nasserist social contract. The law defines these two groups based on the source and level of income. A peasant is an individual who earns his main income from agriculture and does not possess or rent more than 10 feddans (about four hectares). A worker is an individual who earns his income from practicing lower-skill jobs and whose education certificate when he first entered a career was below the university level. The law stipulates that a peasant candidate must reside in the countryside, and that the worker candidate must be a member of one of the trade unions of the Egyptian Trade Union Federation, which is the only central trade union organization in the country. Any other candidates are grouped in a residual category called *fi'at*.<sup>9</sup>

The voters can choose two candidates in every constituency. In vote counting, the quota is then taken into consideration. This means that in case two *fi'at* candidates win the election and the third position is taken by a worker, either the worker will ascend or the election will be repeated between the two candidates running under the *fi'at* category. A party cannot nominate two candidates from the *fi'at* but it can nominate two workers.

Trade union leaders are the beneficiaries of this system even if they have a very high income. Traditionally, one of the two deputy speakers of the People's Assembly is the Head of the Egyptian Trade Union Federation. Law No. 36/1972, together with the trade union law, granted members of this elite the privilege to count as workers and maintain their parliamentary seat throughout about thirty years. A candidate who had started as a simple worker, without a university degree and with a limited wage, then later obtained a university degree and held a managerial position or worked in trade and finally became a millionaire would continue to qualify as a 'worker'. The rationale behind this was to reward the old trade union elite through this privilege for their acquiescence to the process of economic transformation during the last decades and the 1990s in particular and their contribution to managing social stability during these years.

<sup>9</sup> 214 candidates entered the current parliament representing this category.

Only prior to the 2000 elections, the former People's Assembly started to rectify the 'fixing' of the electoral category to prevent what was called "unconstitutional actions". This reform (Law 13/2000) intended to change the situation so that the electoral category would express the candidates' actual legal and financial status. It therefore could have opened the door for displacing many of the present trade union leaders. However, many candidates were allowed to stand for election without changing their electoral attributes as 'workers' or 'peasants'. Thus the administrative courts had to consider hundreds of appeals against the electoral attribute used. But as the judgements of the Administrative Court do not have the power to annul the membership of the People's Assembly after its formation, suspicions about whether the reform project was abided by continue to persist.

Will the present People's Assembly witness a judgement from the Supreme Constitutional Court invalidating its formation? Since the court took eight years to pass its ruling concerning the supervision by members of the judiciary over the election committees, it is not likely that this is going to take place during the current parliamentary term. This earlier long judicial process not only allowed the 1990–1995 Assembly (whose formation was contested as unconstitutional) to complete its term, but also allowed for the formation of the subsequent Assembly (1995–2000) on the basis of the same outdated principles. Despite the independent role that the Court has played in the last 20 years, it seems that the Supreme Constitutional Court has acted in accordance with what it perceived as political priorities of the country.<sup>10</sup> Interestingly, for instance, the court acted faster than usual to rule that the election codes on the basis of which the respective parliaments had been elected were unconstitutional when in 1983–1987 and 1987–1990 the assemblies had the highest representation of opposition parties and of the Islamist opposition in particular ever.<sup>11</sup> The decisions led in both cases to the dissolution of the assemblies.

What could happen during the current term is that the Assembly intervenes to reach a redefinition of

both 'workers' and 'peasants' and thereby reconstitute part of its legitimacy. This redefinition should conform to the rising level of qualification of the labor force. With the restructuring of technical education, a new spectrum of workers and of peasants with higher education and income has emerged. A redefinition of the 'worker' and 'peasant' category would heavily influence the composition of the next parliament and reflect a new social contract.

#### **The Assembly and the Judiciary**

The lower courts do not have the power to abrogate the formation of the Assembly. As soon as the Ministry of Interior announces the election results and the deputies take the legal oath, the Assembly becomes the sole authority to resolve issues related to the validity of its membership. Consequently, neither the administrative courts' rulings nor those of the court of appeal on objections to the election procedures can automatically invalidate the membership of the deputies. These judgements become mere reports submitted to the Assembly which may adopt them and vote to abrogate the membership by the majority of two-thirds, or disregard them completely.

The Assembly's negative stance concerning rulings against dozens of its members during all the previous formations had negative effects on its legitimacy. In 2000 the Assembly regained some of its credibility due to the judicial supervision of the electoral process. However, the objections raised lately concerning the electoral attributes of the candidates are no less important.

#### **"Party-ism"**

Rotation of power between the competing political parties is not on the reform agenda in the foreseeable future, because this would necessitate the amendment of the constitution which gives the president alone the power to form the government irrespective of a party's share of seats in the Assembly. It is a government of the president not of the parties. But in the light of the election results, several political parties are expected to play a more important role in political life. This will happen by disengaging the ruling party apparatus from the apparatus of the state and by broadening the participation and representation of the opposition parties in the latter.

<sup>10</sup> For a more detailed discussion of the relation between the Supreme Court and politics in Egypt see Abdelnasser 1999.

<sup>11</sup> Due to the electoral regulations of the time, the Islamists ran as candidates on the lists of other opposition parties. Al-Wafd and the Muslim Brotherhood had 13 per cent of the Assembly's seats in 1983–1987, and the Islamist alliance had 22 per cent of the Assembly's seats in 1987–1990.

## The Ruling Party

The ruling National Democratic Party (NDP), chaired by the president of the republic, seems to be suffering from a “crisis of abundance”. It is the sole party that has candidates in all 444 seats. Wherever more party members wanted to run for elections, they had to present themselves as independent candidates. In 2000, the party’s candidates won only 38 per cent of the parliamentary seats against 47 per cent for the independents. This was the first time that the “party’s independent candidates” overran the party’s candidates. Those “independents” do not owe their success to the party. One may therefore interpret this as an indicator of the party’s deteriorating popularity. The voters have punished the party by giving their votes to candidates not chosen by the NDP. It is also possible to consider the success of the independents over the party candidates as a sign of the people’s desire for change, in spite of the party’s announcement that it had already changed 40 per cent of its candidates; or it could have been an endeavor on the part of the voters to test the credibility of these elections. The observer may even deduce all the above together.

The NDP’s reactions to the election results suggest that the party must have come to similar conclusions. What was called in the press “a humiliating defeat” and “a party out of touch” was a starting-point for the NDP to replace its second and third-rank functionaries and introduce internal reforms, especially after 10 of the party’s local secretaries and eight of its heads of parliamentary committees had lost their seats. These reforms are conducted on two levels. On a vertical level, local leaders are chosen more and more through elections on the grassroots level instead of being appointed by the central leadership. On a horizontal level, the party’s apparatus is separated from the state apparatus so that the party will appear as an organization autonomous from the state. Thus it is currently under discussion that officials should no longer acquire party membership automatically by virtue of their executive positions.<sup>12</sup> Similarly, the separation of the NDP chairmanship from the presidency of the state is debated. Before Camp David (1978) when Anwar Sadat decided to take over the leadership of the

NDP, the prime minister not the president chaired the Arab Socialist Party (the predecessor of the present NDP). In the context of the tremor caused by Sadat’s visit to Jerusalem, the beginning of the first Camp David talks and the early signs of the Islamic Revolution in Iran, it was decided that the president himself should chair the ruling party.

## The Opposition Parties

The opposition parties except the Islamic current seem to suffer from “scarcity”. Only three of the 14 opposition parties stood for election in 2000. But even they were unable to put forth candidates all over the country even if we add the independents adhering to the different currents of the opposition.<sup>13</sup> The liberal Wafd party could only nominate a candidate in 60 per cent of the electoral districts and finally won seven seats. The leftist socialist current, with its two wings, the Tagammu party and the Nasserist Party, had even more problems covering the whole country. The Tagammu nominated candidates in 10 per cent of the constituencies and won six seats in the current parliament. The Nasserist party covered six per cent and won two seats. Two indicators show their weak position: First, the total number of their parliamentary seats (15) did not increase over three successive parliamentary terms. Second, they won fewer seats than the independent candidates unofficially running for the banned Muslim Brotherhood (17 seats).

All the opposition parties suffer from a weak organizational structure. They lack an effective basis in the governorates and local communities. Their activities are limited to their party headquarter offices in Cairo and Alexandria and sometimes do not exceed the respective press activity. They may be described as parties encapsulated in their newspapers and party offices. One could also describe them as “newspapers with a party”, rather than political parties with a newspaper. Their most effective role lies in highlighting the necessity to abrogate the state of emergency. After the elections, also the opposition called for new methods to choose and renew their leadership.

<sup>12</sup> Currently whoever would be appointed, for instance, director of an administrative unit, would by mere virtue of occupying this position automatically become a member of the NDP if he has not been a member earlier.

<sup>13</sup> The independents form over 75 per cent of the candidates.

## The Islamic Current

During the 1990s, after in the 1980s Egypt had witnessed the apex of Islamist influence and its highest representation in parliamentary councils so far (five parliamentary seats from 1987 to 1990), the state launched a comprehensive campaign against the three wings of the Islamic current: the Muslim Brotherhood, the Labor Party, and the Gama'at Islamiyya. In addition to the military campaign against armed Islamist groups and the arrest of thousands of group members under the emergency law, the state hampered the representation of the Muslim Brotherhood in all elected councils (such as the professional syndicates, the parliament, the trade unions, the local councils, etc.). The Labor party, known for its Islamic orientation, was subject to continuous security and judicial chases. This culminated in a decision of the Parties' Affairs Committee to freeze the party's activities and close down its headquarters before the elections in 2000 in order to prevent it from participating. It seemed that by the end of the 90s some reconciliation between the state and the radical fundamentalist groups had taken place as some of their arrested members were released and the Gama'at Islamiyya, which is the largest radical group, announced a cease-fire in March 1999.

It was within this framework that the outlawed Muslim Brotherhood returned to participate in the 2000 parliamentary elections. The elections took place while the leaders of the Muslim Brotherhood were tried by a military court in what is known as the "professional-syndicates lawsuit". Therefore their candidates ran as independents and originated mostly from the second rank. For the first time the Muslim Brotherhood nominated a woman in order to counter accusations that they underrate the women's status. In spite of the chases made by the state security prosecutor (an extraordinary investigation organ) and the arrest of hundreds of members of the Muslim Brotherhood during the election campaigns, 17 candidates were elected into the new parliament. They form the largest opposition block with more seats than all of the "legal" opposition parties together. They testify overwhelming vitality and represent the most serious threat to the ruling party. In case the state of emergency is abrogated or the Muslim Brotherhood becomes a legal party, it will pose a serious challenge to the political regime and its credibility.

## Genuine Independents

Twenty-one parliamentary members have not aligned with any party, and therefore are referred to here as 'genuine independents'. But observers classify them according to their political leanings. Fourteen – including 10 businessmen – are close to the liberal Wafd party. Five are close to the Nasserists and two are closer to the Islamists.

The political chart of the parliament may thus be finally read as follows: the NDP comes in the vanguard with 388 seats (87%) which includes those NDP members that had run as independent candidates, followed by the liberals (22 seats, 5%), the Islamic current (19 seats, 4%) and finally the leftist parties (13 seats, 3%).<sup>14</sup> Consequently, the opposition has 54 seats or over 10 per cent, which is constitutionally sufficient to demand a motion of no confidence against the government or one of its ministers. If the opposition would unite for the first time since the establishment of the Republic, this would be an unprecedented but possible move.

### The Assembly and the Government

The Assembly acts in a supervisory role vis-à-vis the government through a specialized technical agency (*al-jihaz al-markazi lil-muhasabat*) that politically belongs to the Assembly, but does not have the right to topple the government. The president solely has the power to form the government or to dissolve it. But the Assembly has the right to make a motion of no confidence against the government or one of its ministers when this is demanded by one tenth of its members. If the motion is adopted by simple majority in the Assembly, the matter will be submitted to the president to resolve it. He may dissolve the government, dismiss the minister or refer the matter to a public referendum. If the result of the referendum is in support of the government, the Assembly will be considered dissolved.

<sup>14</sup> Two parliamentary seats are still vacant as the election results of one district have not yet been published (for background see next page), which is why the percentages given here only amount to 99 per cent. The calculations also do not include the 10 parliamentarians that are appointed by the president.

## Emerging Groups

### Women

The Egyptian constitution has granted women the political rights of candidacy and voting since 1956. A quota for women's participation in the People's Assembly was determined only once. During the 1979–1984 term, women were assigned 35 seats in chosen constituencies. This was part of a package of laws aimed at improving the status of women. The package carried the name of the former First Lady of Egypt, Gihan Sadat, and was revoked quickly after a court ruling stated that these laws were not constitutional – under pressure from wide opposition in social and political circles reflecting, among others, the growing influence of the Islamic current.

In the year 2000, the status of women resurfaced as one of the major topics of the political agenda. It started with the promulgation of Law No. 1/2000 that amended the personal status law and for the first time granted women the right to ask for divorce without specified reasons before the court (*al-Khul'a*).<sup>15</sup> Passing the law underwent serious obstacles after a severe conflict of opinions in elite circles and public opinion. The year ended with the formation of the National Council for Women, a high-level organization that combines governmental and non-governmental women's organizations and aims to promote the status of women.

Women's participation in the 2000 elections was lower than expected. About one fourth of the contesting 96 women were party members. This ratio corresponds to the frequency of party membership among the candidates in general. Although only seven women became members of the parliament and all belong to the National Democratic Party, the fact that they were elected in poor urban and semi-urban areas is meaningful. In spite of the small number of women in the parliament, the fact that the second Deputy Speaker is a woman from the *fi'at* is also significant.

The only electoral district in which the legislative authority has not published the result so far is Alexandria's al-Raml district, where the first female

candidate of the Muslim Brotherhood was nominated.<sup>16</sup> Most observers are sure that this candidate, Gihan al-Halafawi, will win. In this case an Islamist woman would sit in the Egyptian parliament for the first time.<sup>17</sup>

### Copts<sup>18</sup>

The constitution does not define a quota for Copts in elections. This has been consensus since the adoption of the first constitution in 1923. The latter was drafted after the 1919 national revolution whose most important slogans were "Religion is for god and the homeland is for all" and "The unity of the crescent and the cross".

In fact, Copts have noticeably withdrawn from political life since the beginning of the religious strife that started in the mid 1970s and reached its climax during the 1980s. Although this discord has not vanished completely, such events have become sparse, occurring only at long intervals during the 1990s. Accordingly, signs of improvement in the Copts' participation in political life during the 1990s can be observed. The call of the Coptic-orthodox pope that Coptic physicians shall participate in the elections of the physicians' syndicate played an important role in this respect. It was followed by their visible participation in the parliamentary elections in 1995. The 2000 elections witnessed for the first time in 25 years the election of three out of 74 Coptic candidates.<sup>19</sup> This may be an indication that the Copts will return to the political arena and it may be the beginning of normalization between the two religious groups in Egypt.

The liberal Wafd party nominated 12 Coptic candidates. It was followed by the leftist Tagammu party which nominated four and the National Democratic Party which nominated one Coptic candidate. The three successful Coptic candidates all belong to the business community. The candidate of the NDP is

<sup>16</sup> According to newspaper reports the Muslim Brotherhood also tried to nominate a Coptic candidate but this finally did not happen.

<sup>17</sup> It is remarkable that the result has not even been published as by June 2001.

<sup>18</sup> Following the mainstream discourse in Egypt the term Copt is used here to denote the whole of the Christian population in Egypt although there also is a minority of adherents to other Christian confessions. Copts had so far mostly been appointed directly by the president.

<sup>19</sup> One-third of the Coptic candidates were party members while the rest were independents.

<sup>15</sup> However, the woman in exchange has to return the bridal money she has received upon marriage to the husband and also has to renounce some of her legal rights, as e.g. maintenance. In practice, this limits the circle of women who can afford a divorce.



the current Minister of Economy and Foreign Trade coming from one of the oldest Coptic families involved in political life, Yussuf Boutros Ghali. The second businessman, Mounir Fakhri Abdelnour, is the General Secretary of the Wafd party. The third, Ramy Lakah, is one of the most eminent businessmen who acquired the Egyptian nationality besides his Lebanese origin and ran as an independent candidate.

The current reintegration of the Copts in the political arena is thus given a major impetus by members of the business community. But the Copts' representation in the People's Assembly had never actually ceased. The president has the right to appoint 10 members to the parliament. Part of them were always chosen from among Copts and women. This year Hosni Mubarak appointed four Copts and four women. It has also been a tradition that an appointed Coptic member of the parliament chairs the Committee of Defense and National Security.

### **Businessmen**

During the mid-1980s, about a decade after the first measures of economic liberalization and privatization had been introduced, the first generation of big businessmen started to emerge. Another decade later, they also began to emerge as political actors as they became more and more involved in parliamentary politics. Generally speaking, they substituted those members of parliament who had held positions in the public sector.

The participation of businessmen in elections often raises the issue of the influence of capital on policies as well as on voters. The donations made during campaigning were estimated to have amounted to about US\$ 1 billion. This revived a stagnant market, but those donations were not free from suspected bribery and purchases of parliamentary immunity to camouflage corruption. Shortly before the elections and during the preparations for candidacy, a first instance criminal court passed a sentence in one of the most serious corruption cases that shook business and political life. About 23 businessmen, including three members of the previous parliament and high-ranking officials, were accused of having embezzled about 11 billion Egyptian Pounds (about US\$ 3 billion). The sentences gave credibility to the government's slogan of "chasing the corrupted regardless of their influential positions".

Businessmen won 25 seats in the 2000 elections. About 50 per cent of them (12 seats) had been running under the umbrella of the ruling party, while three had stood for the liberal Wafd party and 10 as independents (representing about 40 per cent of all seats won by independents). The Left and the Muslim Brotherhood did not nominate any businessmen to represent them. Furthermore, 52 small entrepreneurs were also elected.

The double nationality carried by some elected businessmen and two ministers was a ground for objections before the administrative judicial authority (the State Council). A sentence was passed in first instance the membership of one parliamentarian should be revoked because his second nationality obliged him to waive his original Egyptian nationality. The sentence that was based upon the assumption that "double nationality means double loyalty" raised controversy in legal and political circles. It has been the first of its kind since the amendment of the Nationality Law (by Law No. 26/1975) which allowed to acquire the nationality of another country. Prior to the said amendment, citizens were forbidden to acquire a second nationality and those who did were considered traitors.

### **Youth**

Several factors led to the emergence of a new generation with higher skills and more pragmatism in decision making. Since the mid-1970s efforts were exerted to develop education structures and curricula as well as new criteria for employment. Several sectors of the domestic and foreign labor markets were opened during the last 25 years, and the state has given directives since the beginning of the 1990s to establish a second echelon of leadership in all sectors. Since, there has been a visible rejuvenation of leadership in both private business and the public sector.

At the political level, the youth secretariats in addition to those of women, peasants and workers represent the cornerstones of the political parties' structures, especially of the NDP. The most important issue of the election campaigns was the issue of unemployed university graduates. Youth secretariats actively directed programs to train young political cadres not only in the parties but also in universities, trade unions, professional syndicates and non-governmental organizations. These efforts started to bear

fruit during the last elections. Younger and more vital faces replaced almost two-thirds of the previous Assembly. Alone 100 out the NDP's 444 nominated candidates were younger than 42 years.<sup>20</sup> Thus the widespread image of a rigid and immobile Egyptian political elite firmly rooted in the apparatus of an authoritarian state conceals the strong mobility of a new generation striving to be a major player in Egyptian politics.

### **Absent ... but present groups**

Although the law, not the constitution, still denies members of the army, police, intelligence agencies, diplomats and members of the judicial authority the right to vote or stand for election as long as they are in office, these groups are conspicuously present. In campaigning, one frequently finds signs with titles such as "Elect Brigadier General..." or "Vote for Counselor..." without any reference that these are former titles. In the 2000 elections, 21 former police officers, six former army officers and three former judges entered the parliament.

<sup>20</sup> There are no statistical data available concerning the age of the actually elected members of the Assembly.

## Horizons of Political Reform

The horizons of political reform presented here are linked with two different time frames. The first is urgent and concerns changes within the framework of the present constitution. The second is anticipated and regards changes of the constitution itself. The agenda of reform departs from demands of the opposition as voiced at different occasions and is woven into a reading of what is likely to happen in Egypt's political arena in the nearer future. The agenda covers two main fields of action: the state structure, i.e., the relationship between state and society on the one hand, and the state identity, i.e., the socioeconomic foundation of the regime on the other.

### Short-term Horizon

The reform agenda on the short term may be summarized as follows: the reform of the economic system, structural reform of the political parties, amendment of the law for political parties and the law regulating NGOs as well as promoting the citizens' participation in elections and civic organizations. These reforms need to accommodate the Islamic current which represents the major challenge to the regime and whose strive for political activity should be accounted for in the party law as well as in the law regulating civil society activities.

At the political level, the declaration of the state of emergency with its arsenal of exceptional laws and institutions, is an insurmountable obstacle on the road towards genuine pluralization and democratization. The institutions of the state agree that the current state of emergency is necessary due to the unstable regional circumstances and the cold peace with Israel.<sup>21</sup> Nevertheless the process of pluralization is going on even under these conditions.

In the short run, the Supreme Constitutional Court emerges as the most important agent of change. This

is a dialectical process in which the Supreme Court legitimizes certain laws that contradict the constitution. The Court thus undermines the respective constitutional provisions and thereby creates the necessity for the construction of new constitutional norms.

### The Economic System and The Supreme Constitutional Court as Agent of Change

The economic reform issue provides good examples to illustrate this role of the Supreme Constitutional Court. Thus in one of its rulings the Court interpreted the constitution in favor of privatization. The decision granted constitutional legality to government measures in this direction although they are in clear contradiction with the constitutional provisions that prescribe the public sector as the main base for all economic development. Another ruling shook the principle of fixed contracts in the fields of real-estate leasing and labor law. The contracting system that prevailed between the owner and the tenant of agricultural lands or real estate for commercial or residency purposes was based on three principles: (a) the state determined a rental value on the basis of the real estate tax, (b) the period of lease was infinite, and (c) the lease agreement was inheritable. The Court's judgement abrogated the last principle in order to ease the way for the liberalization of leasing contracts. This will affect the positions of many social groups on the one hand, and will introduce a different formula for ownership and possession on the other.

In the same way, the rules that labor contracts between the state and its employees were based on began to change gradually from the state's commitment to employ any university graduate to employment through contests. Labor law also changed from resolute regulations that realize job security for the employee and adopt seniority as a basis for promotion, to more flexible regulations that take efficiency and individual initiative as a basis for promotion. However, wages and salaries are still restrained. In this context another ruling of the Constitutional Court

<sup>21</sup> Correspondingly, the Supreme Court in 1992 ruled that the president's power to declare and renew the state of emergency is constitutional. Also the NDP-dominated parliament always agrees to a renewal of the state of emergency, despite the resistance of the opposition parties which usually vote against the renewal.

stated that it is unconstitutional to fix a maximum level for the compensation of the top management in the public sector companies. Similarly, it ruled that it is against the constitution to deprive an employee of the right to receive a pension and salary at the same time.

### Reform of the Political Parties

In order to give an impetus to the structural reform of the current political parties, the president of the republic will have to give up chairing the ruling party and to restore the situation that existed at the beginning of the experiment of pluralism in 1976 when the prime minister, not the president, chaired the ruling party. It would be a beginning of both separating the party apparatus from the state apparatus and the withdrawal from the one-party profile. This reform requires, as mentioned earlier, horizontal and vertical action. Horizontally, the party membership should be made autonomous and should not be gained just by virtue of certain executive positions. Several steps were made in this direction. Vertically, the party leaders should be chosen by elections from the bottom, not imposed by the top. Steps taken in this direction have been slow so far. However, there were signs of intentions to introduce change after the election in 2000.

The major opposition parties, namely the liberal Wafd, the Tagammu' and the Nasserist are suffering from the same symptoms. Their leadership has not changed for decades and sometimes the party's chairman is even elected for lifetime. Old renowned families or elder-men networks determine the leadership. Promotion happens through appointment from the top rather than by elections from the bottom. Party meetings are sparse and irregular. Party activities are limited to their newspapers and party headquarters.

But this is only the surface of a quiet river that hides the apparent agility and vitality of a young generation, i.e., those who are between 30 and 42 years of age. A look at the second echelon of leadership will not miss those young people and new cadres who have put on their agenda to remedy the aforementioned symptoms. The remedy lies in more internal democracy, reducing favoritism and rewarding efficiency as well as independent initiative

and finally aiming at installing a team of leaders instead of resorting to one charismatic leader.

This emergent elite did not come from a vacuum. It is the output of programs prepared by all parties as well as other institutions during the 1990s in what seemed a general approach towards building a second echelon of leadership. These cadre-building programs have now begun to bear fruit. The election of the leadership of the Wafd last year symbolized this process. After the death of its lifelong leader Fuad Siraj Eddin who was one of the most eminent political leaders before the 1952 revolution, the party's young second echelon of leadership played a decisive part in the multi-candidates election. They successfully backed a middle-aged professor of law against the brother of the deceased leader who is almost his age. The third candidate was also a descendent of one of the oldest families known for their historical support for the Wafd party.

Internal reform is necessary as an initial step on the road towards democratization especially for the ruling party. No less important is the retreat of the ruling party from the state and the retreat of the opposition parties from their newspapers and party headquarters to broaden their bases and "renew their blood". This makes it necessary for the state to relax its tight grip on political action in the universities, trade unions and NGOs.

### The Party Law

One of the most apparent features of the Egyptian party system is the abundant number of inactive parties on the one hand, and the limitations and unlawful character of the Islamic parties on the other. The law that regulates the foundation of political parties is one of the main reasons for this status quo. The law delegates the power of issuing party licences and monitoring their political activities to an administrative committee (the Parties Affairs Committee).<sup>22</sup> This entitles the committee to freeze a party's activities and funds and to close down party headquarters. Although the parties have the right to challenge the administrative committee's decisions before

<sup>22</sup> The six-member committee is chaired by the Speaker of the Shura Council and it comprises the Minister of Justice, the Minister of Interior, the Minister for Parliamentary Affairs as well as two former judicial consultants chosen by the president.

the administrative judicial authority (the State Council), the council's decisions are not binding to the committee. It can refer the investigation to the Public Socialist Prosecutor who will undertake action against these parties before the exceptional Court of Values. Both institutions belong to the extraordinary judicial system and were established in the 1980s.

The committee issued licences for parties that can now easily be called "parties on paper". The bigger parties call them "in-vitro parties" because they had an "unnatural" birth. These parties are 11 out of the 15 existing parties. On the other hand the committee was close-fisted in issuing licences for political movements that are indeed present in the political arena. The Nasserist party for example was not able to obtain a licence until 1992, after an administrative court ruling and after the committee refrained from filing action before the Court of Values.<sup>23</sup>

Also the al-Wasat party, which observers regard as one attempt of parts of the Muslim Brotherhood to enter the political scene, has been waiting for a licence for more than five years.

In July 2000, the Parties Affairs Committee issued a decree freezing the activities of the Labor party, known for its Islamist tendencies, after it had launched a press campaign against a novel published by the Ministry of Culture. The campaign accused this novel of being an offense to Islam and incited a violent wave of student protests. The committee's decision, which is still in force, prevented the Labor party from nominating its candidates for the elections. Some of them stood as independent candidates, similar to members of the Muslim Brotherhood that has not yet applied for obtaining a licence to establish a legal political party. They seem to be satisfied at present with testing the intentions through the al-Wasat party after the Supreme Constitutional Court in 1992 had rejected a claim filed by the Brotherhood against its unconstitutional dissolution in 1954.<sup>24</sup>

But there are indications that the Muslim Brotherhood is willing to integrate into the party system. For example, the movement changed its motto from the 1980s, "Islam is the Solution", to "Reform through Respect of the Constitution in Text and Spirit" during

the 2000 election. In addition, the method of participation and the declarations of the Brotherhood during the last elections indicated their desire for reconciliation. As a matter of fact, the legal accommodation of the Brotherhood remains a big challenge. In this context, demands to amend the party law is part of the agenda to release the administration's grip on granting licences for new parties and monitoring existing ones. A law amendment should also establish new rules to sift out the idle parties and allow for a space of action for active underground movements that aim to work publicly.

Will it be possible to return to the rules that were in force at the beginning of the multi-party system? According to these rules, any party seeking a licence had to receive the approval of at least 20 members of parliament. This was the case with the Wafd party and the Labor party. Or, will the whole subject be left entirely in the hands to the judiciary, as was the case with the Nasserist party that was only established after a court ruling? Or, will new rules be sought? Whatever the case might be, what is needed is to lift the trusteeship of the administrative committee. The Supreme Constitutional Court may play a decisive role here again as it did when in the early 1990s it abolished the condition that a party has to approve the peace agreement with Israel.

### Civil Society Organizations in a Vacuum

The Egyptian field of non-governmental activities comprises three categories: In addition to hundreds of non-governmental organizations (NGOs) acting in social and religious care under the financial and administrative auspices of the government, two parallel categories of organizations emerged during the 1990s. One of them is a semi-formal group of organizations acting in social fields such as motherhood, childhood, the family and woman under the patronage of the First Lady. They rely on their own initiatives for financing their activities, especially fundraising in the Egyptian business community. The last, most autonomous category includes dozens of organizations that were established successively since the end of the 1990s, works outside the official legal frame that has been set up for NGOs and embraces hundreds of activists. In order to avoid strict financial and administrative supervision by the government, these organizations do not register under law No. 32/

<sup>23</sup> All parties that successfully applied for a licence so far had to go through the same process of rejection by the committee in the first place which then was revoked by a ruling of the administrative court.

<sup>24</sup> The Court saw that the dissolution decision preceded the promulgation of the constitution that governs the Court (1971).

1964 but as civil companies. They are involved in social, political and trade union activities and are financed from abroad. Most human rights organizations and research institutes fall into this category. Their foreign funding amounts to about 10 per cent of the total foreign grants to the private sector, i.e., totalling US\$ 30 million (Ibrahim 2000).

In order to unite these different organizational varieties of NGOs under a common umbrella, a joint committee combining representatives from the government and from these organizations was formed for consultation and negotiation on a draft law. When the new law governing NGOs was issued on May 17th, 1999, it caused a split between these organizations and inside each of them. Supporters found that it was possible to work within the limits set by the new law, while the opponents held the opinion that the law would impose governmental trusteeship over NGOs and that they would have to subject to the government's financial and administrative supervision. They also saw that the law's provision stating that NGOs should not be involved in activities allocated for political parties and trade unions would allow for a wide range of interpretations and put the NGOs under direct threat. However, this law was enforced for a few months only because the Supreme Constitutional Court then ruled it unconstitutional. The decision was based on procedural grounds. The court considered that the law should have been submitted to the Majlis ash-Shura prior to its adoption and issuance. The NGOs are now acting in a vacuum.

The relationship between the government and NGOs working in the fields of research and human rights has in general not been very good. It was dominated by mutual mistrust, and security as well as judicial actions were taken against some of their leaders occasionally during the last years. In 2000, tensions have increased and the situation has become even more polarized. Some of the NGOs working in social care started to cooperate more and more with other semi-formal organizations under the umbrella of the National Councils for women, child- and motherhood. Other NGOs faced mounting pressure concerning their research, human rights activities and financing. Saad Eddin Ibrahim, Chairman of the Ibn Khaldun Center for Development Studies,<sup>25</sup> was

<sup>25</sup> The Ibn Khaldun Center's main concerns have always been to promote democracy and civil society groups. In this context, the Center addressed sensitive issues as the status of Copts and monitored the 1995 parliamentary elections. The charges ranged from accepting funding from the EU without

detained in July 2000 and tried before the Supreme State Security Court later that year. As a professor at the American University in Cairo, and an internationally renowned sociologist, his case has attracted international attention.

Allegations and counter-allegations in the NGO field have always been connected with two principal issues: (a) foreign funding and monitoring, and (b) limits of action with regard to issues of national concern. A law that deals with these two points is needed urgently in order to finally regulate and unify the legal bases for the action of all civil society organizations in Egypt. The emergence of a draft law will depend to a large extent on negotiations between three parties: the government, the donor community and the NGOs.

Several thousand of NGO cadres have proven their efficiency during the 1990s. The NGO elite then provided the leaders of the newly created semi-formal organizations. New programs in fields as literacy, micro-credits for the poor, social care for aged or handicapped people and the promotion of women

permission and mismanagement of funds to forging election registration cards and tarnishing Egypt's image abroad. Saad Eddin Ibrahim was sentenced to seven years of hard labor in May 2001. Four other associates of the Ibn Khaldun Center were sentenced to hard labor ranging from four to five years, while the sentences of one year of hard labor for 21 staff members of the Center were suspended. The court's reasoning has not been published as by May 2001 and possibilities of appeal are still examined. The judgement provoked critical reactions both inside and outside Egypt by politicians, newspapers and alike, and the case is being fiercely discussed among the different political currents in Egypt. The case is also especially delicate because Saad Eddin Ibrahim possesses the American citizenship aside the Egyptian one. For more detailed information on the case see press coverage, e.g. Nadia Abou El-Magd, "Seven Years", in *Al-Ahram Weekly Online* 24-30 May 2001.

In this context, it is important to note the sensitivity of external intervention through statements of condemnation or other measures. Cases like the one of Saad Eddin Ibrahim are very often considered to be internal affairs that reflect inner-Egyptian struggles over values etc. not only by the authorities, but also and maybe even more so by society. Thus, the very same Egyptian human rights organisations that unanimously condemned the ruling against Saad Eddin Ibrahim, also unanimously boycotted the Committee for Religious Freedoms of the US Congress that visited Egypt in March 2001. The Committee had been sent to Egypt to investigate the status of Copts in Egypt and then to report to the Congress who was to decide about the amount of aid given to Egypt. The visit was seen as counterproductive rather than beneficial for the delicate relations between state and society.

were launched. The new law should empower the NGOs to take their own financial and administrative decisions without centralized control. The new law should also create possibilities of participation for human rights and trade union activists who have effectively accumulated valuable experiences of political engagement in domestic and foreign affairs. Plurality and autonomy are beneficial and are even a precondition for building confidence between the government and the NGOs, regrouping a diversity of liberal, Islamic and leftist currents. These NGOs are needed by the state as much as they are needed by society.

## Long-term Horizon: Constitutional Reforms

### Strengthening the Assembly vis-à-vis the Presidency

Taking an optimistic approach, one can expect that the composition of the next parliament (2005–2010) is going to change even more substantially. It is likely that the NDP, for the first time, will not gain a two-thirds majority. This would be a good base for constitutional reforms. A two-third majority is necessary, for example, to nominate a candidate for the presidency. The next parliament will find on the top of its agenda the renewal of the president's term for another period (2006–2012) and it may determine the number of presidency terms which is unlimited so far.<sup>26</sup> Another issue up for reform is the current system for the election of a president which is still by referendum, i.e., with only one candidate. Instead, there should be direct, multi-candidate elections. Both issues need the amendment of the constitution. Aside from the Assembly, the Majlis as-Shura will have to play a major role in this respect.

### Contentious Issues and Common Demands

Since its amendment at the beginning of the 1980s, the constitution that determines the guiding principles of the country's economic order puts more emphasis on 'democracy' than on 'socialism'. Never-

<sup>26</sup> Anwar Sadat changed the previous provision which limited the presidency to two successive periods. He justified this amendment, which he did not live long enough to benefit from, by the need to stabilize the top authority during a stage of transformation.

### The Parliament and the President

According to the constitution, the Assembly nominates the president with at least a two-third majority. The presidential candidate then has to be confirmed in a public referendum. With the same majority the Assembly may accuse the president of high treason or charge him with any criminal act, delegate the legislative power to him and pass laws which the president has rejected and returned to the Assembly. The president, on the other hand, may dissolve the assembly after this has been confirmed in a public referendum. He can also refer matters of the country's supreme interests to a referendum. In practice however, President Mubarak, who has been in power since 1981, is not only the president of the republic but at the same time chairman of the NDP which has never occupied less than 80 per cent of the parliamentary seats since the introduction of the multiparty system in 1976.

theless, it took the government and the Left, as represented especially in extra-parliamentary institutions like the trade unions, about 10 years to reach an agreement on economic liberalization and privatization programs. The motto of the Left changed from "Protecting the public sector" to "Treating the social impacts of the economic reform programs". But new contentious issues were brought up by the liberals<sup>27</sup> who saw that the provisions of the current constitution do not suffice to secure private ownership against risks of confiscation and nationalization. They also regarded the allocation of 50 per cent of the elected councils' seats for workers and peasants as no longer suitable for a system that moved from what was called "Alliance of the forces of the working people" to liberalization and multi-partism. This, however, is unacceptable for the Left which will defend the existing "socialist" provisions against any attempts to abolish them.

Disagreement between the liberals and the Left is becoming less sharp over matters concerning public freedoms. This includes (a) the right of association instead of the present regulations discriminating against associations, societies, unions, trade unions and parties, and (b) the right of free movement for all individuals. There is an increasing consensus to

<sup>27</sup> In the economic field this includes the members of the Muslim Brotherhood.

demand that the currently publicized motto of the state – “State of institutions and supremacy of law” – be implemented. The opposition demands a reform of the state structure that would diversify and decentralize power in executive and decision-making processes and open the system to bottom-up influence so as to transform the authoritarian presidential regime into a semi-parliamentary one. There are also demands to reduce the legislative authority of the president, to give the majority party a right to say in forming the government, to grant the parliament the right to make changes to the general budget of the state, and to abolish the president’s authority to appoint the provincial governors.

Moreover, it is expected that there will be demands that the president should not preside over the higher councils of military organizations (the army and the police), and especially not over the Higher Council of Judicial Authorities. As has been demanded also by Egypt’s judges, the role of the Higher Council of Judicial Authorities should be activated and be charged with the administrative, technical and financial supervision of judges of the first instance courts and the courts of appeal with regard to their transfer, promotion and salaries instead of leaving all these functions in the hands of the Ministry of Justice.



## Concluding Reflections

Egypt provides an example of a country that is transforming from an authoritarian system to a system with more liberal features. This transformation is taking place through a gradual process closely connected to changes in the regional and international environment. It can be called a process of pluralization in which the single decision-maker or the single institution is "de-monopolized". This break-up leaves multiple institutional units on the horizontal level behind. On the vertical level, i.e., within the institutions, it will bring the second and third-rank elite up. The Egyptian experience shows that this happens faster in economic than in political institutions. In any case, the pluralization of decision-making institutions brings about competition and negotiations on the economic and political resources between the emerging units. This could lead to the creation of democratic values in order to manage the differences between the units. Here the role of the judiciary emerges to ensure a transition towards the rule of law.

The same phenomenon can be witnessed within society. A transition is taking place from few major collective units (like the tribe, the extended family, the guilds) to many smaller social groups who shelter the individual. This heavily influences decision-making and representation within these groups since it is no longer the patriarch alone who takes major decisions on political or social issues on behalf of his subordinates. The individual emancipates him- or herself from the family legacy prescribing education, work, marriage, place of living. Two factors are responsible for the mobility of the individual: education and the spread of capitalist values. In order to raise his income, the individual now depends on his own efforts. This leads to an identity based on one's own choice of work according to norms which are based on individual initiative and competition. These new norms are becoming more important than the solidarity of the former social unit. Eventually, these people will ask for adequate modes of representation and political participation replacing the traditional mode.

The change of the status of women best reflects the process of de-monopolizing the single decision-maker. Traditionally, women have been the core of the

extended family which functioned on the basis of patriarchy and at the same time preserved it. With the spread of the nuclear family and as women are increasingly given individual rights in both public and private spheres, the power of patriarchy declines. Thus, women make up for a third of the cast votes in Egypt and more than 20 per cent of the workforce. The increase in girls' education<sup>28</sup> liberates girls more and more from the power of the father. Law 1/2000 gave women the right to demand a divorce before the court without specified reason. One and half million women have currently filed a case in a family court, that is more than 10 per cent of all families. Two-thirds of them are petitions for divorce.<sup>29</sup> Law 1/2000 supports women in their own decision-making and lifts them from the paternal guardianship. It can be regarded as the basis for a change of values in society and a new social contract.

Especially in urban areas individuals are more and more independent from primordial groups – a fact which is paradoxically partly reflected in the low voter turn-out in the cities. In order to integrate people who identify and act increasingly as individuals, different forms of mobilization and participation are needed. The current marginalization of this category of people will in the long run create pressure for reforming the dominant culture of decision-making at all levels of socialization, i.e., family, school, university, party, trade union, to enable their participation.

The emergent pluralism visible in state and society is represented in an emergent new elite sometimes referred to as "generation of peace" and sometimes as the "generation of globalisation" or "future". This generation has now reached the second and third rank positions within the most important state institutions, and to a lesser extent in political parties and trade unions. The question is to what extent this new elite has found a common political agenda. But in any case it urgently wants to surface.

<sup>28</sup> Analphabetism among women decreased from 71 per cent in 1985 to 58.2 per cent in 1998 (UNDP 2000).

<sup>29</sup> The new law facilitates the proceedings which had formerly taken ten years on average especially since the woman had to prove that her husband was either impotent, absent or violent.

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